

Corporations Act 2001

PUBLIC COMPANY LIMITED BY GUARANTEE

CONSTITUTION

of

THE AUSTRALIAN AND NEW ZEALAND COLLEGE OF NOTARIES

(As amended 2 October 2007)

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(As amended 2 October 2007)

1. NAME

- 1.1 The Company's name is **THE AUSTRALIAN AND NEW ZEALAND COLLEGE OF NOTARIES** ("the College").

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Constitution and in all documents referred to in it, unless the context otherwise requires:-

- (a) "**Act**" means the *Corporations Act 2001* (Cth);
"**AGM**" means an annual general meeting;
"**Board**" means the College's board of governors;
"**Chairman**" means the chairman of the Board;
"**Deputy Chairman**" means the deputy chairman of the Board;
"**general meeting**" means a general meeting of members of the College;
"**governor**" means a director of the College;
"**person**" means a body corporate or body politic as well as an individual;
"**Rules**" means rules which, in the Board's judgement, are necessary for the proper regulation of the College's affairs and of the members' rights, obligations and responsibilities, including but not limited to standing orders for the conduct of meetings;
"**Seat**" means the seat of the College;
"**Secretary**" means the College's company secretary;
"**State**" means:
(i) a state of Australia; and
(ii) an electoral district in New Zealand as set out in paragraphs (g), (h) and (i) of sub-clause 28.1 below;
- (b) a power to do something includes a power, exercisable in the like circumstances to revoke or undo that thing;

- (c) reference to a specific thing is a reference to the whole or any part of it;
- (d) reference to any instrument, agreement or document including but not limited to this Constitution, means the particular instrument, agreement or document as amended, modified or replaced from time to time;
- (e) words and expressions defined in the Act shall have the meanings so defined;
- (f) words importing the singular number import the plural number and vice-versa;
- (g) words importing a particular gender import the other genders;
- (h) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings; and
- (i) headings and highlighting are for convenience only and shall not be taken into account in the interpretation of this Constitution.

2.2 To the extent that they are displaced or modified by this Constitution, the provisions of the Act categorised as “replaceable rules” shall not apply to the College.

2.3 This Constitution has effect as a contract:

- (a) between the College and each member; and
- (b) between each member and each other member

under which all persons agree to observe and perform its requirements so far as they relate to them.

3. OBJECTS

3.1 The College is a learned society the objects of which are:

- (a) to advance knowledge of and the pursuit of excellence in notarial law and practice;
- (b) to promote and where considered necessary or appropriate, to provide education and training for practising notaries and for lawyers who seek appointment to the office of notary;
- (c) to promote, communicate and disseminate within the community a wider knowledge and understanding of the law relating to notarial practice and a wider awareness of the office of notary;
- (d) to provide information and educational facilities for its members and for the public at large;
- (e) to institute and conduct discussions, lectures, seminars, symposia and conferences relating to notarial practice and theory and related areas of law for the benefit of its members, the notariat generally, government, the diplomatic and consular services, the legal profession, specific interest groups and the public at large;

- (f) to publish educational materials for notaries, prospective notaries and others;
- (g) to institute, provide or contribute to awards, prizes, scholarships or other recognition or support for outstanding research or educational or academic achievement in areas of law concerned with or related to notarial practice;
- (h) to provide a forum for the consideration of problems affecting notarial law and practice; and
- (i) to do all things incidental or conducive to attaining or furthering the objects referred to in paragraphs (a) to (h) above.

4. CAPACITY AND POWERS

4.1 Subject to the Act, the College shall have the legal capacity and powers of:

- (a) an individual; and
- (b) a body corporate

both inside and outside Australia.

4.2 Without limiting the generality of the preceding sub-clause and not in derogation from it, the College shall have the power to:-

- (a) issue debentures;
- (b) grant a floating charge over its property;
- (c) arrange its registration or recognition as a body corporate in any place outside Australia; and
- (d) do anything that it is authorised to do by any law including but not limited to a law of a foreign country.

4.3 No part of the College's income and property shall directly or indirectly be applied, paid or transferred by way of dividend or bonus or otherwise to any member.

4.4 The College must apply its income and property solely toward furthering its objects.

4.5 Subject always to the preceding sub-clause and to the following sub-clause, nothing in this Constitution shall prevent the payment in good faith of:

- (a) remuneration to any member in return for:
 - (i) services actually rendered; or
 - (ii) goods supplied in the ordinary and usual way of business to the College; or
- (b) reasonable and proper rent for premises leased to the College by any member.

- 4.6 The College may not make any payment to any governor, save for:
- (a) the payment of out-of-pocket expenses incurred by the governor in the performance of any duty as a governor, where the amount payable does not exceed an amount previously approved by the Board; and
 - (b) the payment for any service rendered to the College by the governor, in a professional or technical capacity, other than in the capacity of governor where:
 - (i) the provision of the service has the prior approval of the Board; and
 - (ii) the amount payable:
 - (A) is approved by the Board; and
 - (B) is not more than an amount which commercially would be payable for the service.

5. MEMBER'S LIABILITY

5.1 The liability of members is limited.

5.2 If the College is wound up:

- (a) every member at the date of winding up; and
- (b) every former member who ceased to be a member within one year of the date of winding up

shall be liable to contribute an amount not exceeding \$20.00 towards payment of:

- (1) the College's debts and liabilities;
- (2) the costs, charges and expenses of winding-up; and
- (3) the adjustment of the rights of the contributories among themselves

save that the liability of a former member to contribute towards the College's debts and liabilities shall be limited to those debts and liabilities incurred before the member ceased to be a member.

5.3 Any amount payable by a member or former member pursuant to the preceding sub-clause shall be determined by the College's liquidator.

6. MEMBERSHIP GENERALLY

6.1 In this clause:

- (a) **"Recognised Academic Qualification"** means:
 - (i) the Graduate Diploma in Notarial Practice awarded by Victoria University, Melbourne ("**Grad.Dip.NP**"); or
 - (ii) a qualification awarded by a tertiary institution in Australia or elsewhere which, in the Board's reasonable opinion, is at least equivalent to the Grad.Dip.NP;

- (b) **"Approved Course of Study"** means:
- (i) a course of study in notarial practice and theory for prospective fellows;
and
 - (ii) associated examinations
conducted by or on behalf of the College.
- 6.2 Any notary holding office in Australia or New Zealand is eligible to be a member.
- 6.3 Any right, privilege or obligation conferred on a member by reason of being a member :
- (a) is not capable of being transferred or transmitted to another person; and
 - (b) terminates upon the cessation of membership for whatever reason.
- 6.4 The members shall be:
- (a) the persons who are notified as members in the application for registration of the College ("**the Initial Members**"); and
 - (b) any other persons admitted to membership in accordance with this Constitution.
- 6.5 There shall be two categories of members, namely:
- (a) ordinary members ("**Members**"); and
 - (b) fellows ("**Fellows**").
- 6.6 An applicant for membership:
- (a) who has held office as a notary for less than five consecutive years before applying for membership; and
 - (b) who does not hold a Recognised Academic Qualification
may be admitted to membership as a Member.
- 6.7 Subject to the provisions of the following sub-clause:
- (a) an applicant for membership:
 - (i) who holds a Recognised Academic Qualification; or
 - (ii) who:
 - (A) has held office as a notary for more than five years before applying for membership; and
 - (B) has satisfactorily completed an Approved Course of Study
may be admitted to membership as a Fellow; and
 - (b) any Member:
 - (i) on being awarded a Recognised Academic Qualification; or

- (ii) on:
 - (A) once having held office as a notary for a period exceeding five consecutive years; and
 - (B) having satisfactorily completed an Approved Course of Studyshall advance to the status of Fellow.

6.8 Despite anything contained in the preceding sub-clause:

- (a) until 30 June 2009, any requirement for applicants seeking admission to membership as Fellows to have satisfactorily completed an Approved Course of Study shall be waived; and
- (b) in the case of persons admitted to membership as Members before 30 June 2009, any requirement for them to have satisfactorily completed an Approved Course of Study as a prerequisite for advancing to the status of Fellow shall be waived.

6.9 All of them being qualified, the Initial Members are admitted to membership as Fellows.

7. POST NOMINAL DESIGNATIONS

7.1 Members shall be entitled to use the post nominal designation "MANZCN".

7.2 Fellows shall be entitled to use the post nominal designation "FANZCN".

8. ENTRANCE FEE AND ANNUAL SUBSCRIPTION

8.1 The Board:

- (a) shall determine the amounts of the entrance fees and annual subscriptions payable from time to time; and
- (b) may waive payment of an entrance fee by applicants for membership in any circumstances which it sees fit to do so.

8.2 Unless otherwise determined by the Board, annual subscriptions are payable on or before 1 July in each year.

8.3 Any member who does not pay his or her annual subscription within three months of the due date for payment shall cease to be a member if the annual subscription is not paid in full within 30 days from the date that the College serves written notice on the member that the annual subscription is three months in arrears.

- 8.4 Where a person ceases to be a member by virtue of the preceding sub-clause, the Board may reinstate the person's membership on payment of all arrears of subscriptions.
- 8.5 The Board may determine that notaries who are admitted to membership after 30 September in any financial year are only required to pay a proportionate amount of the annual subscription due for that year.

9. APPLICATION FOR MEMBERSHIP

- 9.1 An application for membership shall:
- (a) be made in writing in a form approved by the Board from time to time;
 - (b) specify the basis upon which the applicant derives eligibility for membership;
 - (c) be sent to the College at its registered office or at any postal address provided by the College for the purpose; and
 - (d) be accompanied by a cheque or credit card authorisation for any entrance fee and subscription payable.
- 9.2 As soon as is reasonably practicable after the receipt of an application for membership, the Board shall:
- (a) consider the application; and
 - (b) determine whether to approve or reject it.
- 9.3 Before approving or rejecting an application for membership, the Board may require an applicant to provide proof to its reasonable satisfaction of any facts set out in the application.
- 9.4 Where an application for membership has been rejected, as soon as is reasonably practicable, the Board shall:
- (a) provide the applicant with written reasons for the rejection of the application; and
 - (b) refund any entrance fee or subscription paid by the applicant.
- 9.5 A successful applicant for membership shall become a member on the day the Board approves the application.

10. ASSOCIATES

- 10.1 Any notary:
- (a) holding office in any place outside Australia and New Zealand; and
 - (b) who is not qualified to be a member
- may be admitted as an associate of the College ("**Associate**").

10.2 An Associate:

- (a) shall not be considered to be a member;
- (b) shall have the right to receive notice of and attend general meetings and College conferences and functions;
- (c) shall be entitled to use the post-nominal designation "Assoc.ANZCN"; and
- (d) shall have any other rights and privileges determined by the Board from time to time.

10.3 The Board shall make Rules concerning the admission and regulation of Associates.

11. HONORARY FELLOWS

11.1 The Board may confer an honorary fellowship on any person:

- (a) it wishes to honour; and
- (b) who is not qualified to be a member.

11.2 An honorary fellow:

- (a) shall not be considered to be a member; but
- (b) shall be entitled to use the post nominal designation "FANZCN (Hon.)".

12. DISTINGUISHED FELLOWS

12.1 If in the opinion of the Board a Fellow has:

- (a) given outstanding service to the College; or
- (b) made a significant contribution to the Australian, New Zealand or international notariats

the Board may confer the title "Distinguished Fellow" on the Fellow, who shall then be entitled to use the post nominal designation "Dist.FANZCN".

13. REGISTER OF MEMBERS

13.1 The Secretary shall maintain a register of members ("**the Register**") in which shall be entered in relation to each member:

- (a) the member's full name, address, telephone number, fax number and email address;
- (b) the member's postal address;
- (c) the basis upon which the member's eligibility for membership is derived;
- (d) any other information prescribed from time to time by the Board (collectively "**Membership Particulars**");

- (e) the date of approval by the Board of the member's application for membership;
- (f) the date of payment of the member's entrance fee (if any) and first year's annual subscription; and
- (g) if applicable, the date on which the member ceases to be a member;

13.2 Members shall notify the Secretary of any changes to their Membership Particulars.

13.3 On receiving reasonable notice from time to time, the Secretary shall make the Register available for inspection by members at the College's registered office.

14. CESSATION OF MEMBERSHIP

14.1 A member's membership shall cease:

- (a) on the member:
 - (i) ceasing to hold office as a notary; or
 - (ii) resigning from membership in accordance with this Constitution; or
- (b) as otherwise provided in this Constitution.

14.2 A member may resign from membership by giving written notice of resignation of membership ("**a Resignation Notice**") to the Secretary.

14.3 A Resignation Notice takes effect on the later of:

- (a) the day following the day on which the Resignation Notice is received by the Secretary; or
- (b) the day specified in the Resignation Notice.

14.4 A Resignation Notice is not invalid because, although actually received by the College, it was not addressed and delivered to the Secretary.

14.5 On cessation of membership, a member shall continue to be liable for:

- (a) any annual subscription and arrears of annual subscription; and
- (b) any other money due to the College unpaid at the date of cessation.

15. DISCIPLINE OF MEMBERS

15.1 For the purposes of this clause, "**misconduct**" means one or more of the following:

- (a) being convicted of an offence involving dishonest conduct, where the penalty imposed for the offence is a term of imprisonment;
- (b) significantly breaching professional ethics;

- (c) falling significantly below the standards reasonably expected of a competent notary; and
- (d) conduct which is prejudicial to the good name of the College or which is likely to bring the College into disrepute.

15.2 If the Board is of the opinion that a member -

- (a) has wilfully refused or neglected to comply with this Constitution; or
- (b) is guilty of misconduct

the Board may propose a resolution to:

- (1) reprimand the member;
 - (2) suspend the member from membership for a period not exceeding 12 months;
 - (3) fine the member in a sum not exceeding five times the member's annual subscription; or
 - (4) expel the member from the College
- ("a **Disciplinary Resolution**").

15.3 A proposed Disciplinary Resolution must either be put:

- (a) to the Board at a special Board meeting held not earlier than 14 days and not later than 28 days after the service on the member of written notice under sub-clause 15.4 ("a **Special Board Meeting**"); or
- (b) to a general meeting convened consequent upon the member exercising the right granted by this Constitution to have the Disciplinary Resolution dealt with by a general meeting.

15.4 Where the Board proposes a Disciplinary Resolution, as soon as is practicable, the Secretary shall cause written notice to be served on the member concerned which shall:

- (a) set out:
 - (i) the terms of the Disciplinary Resolution; and
 - (ii) the grounds on which it is based;
- (b) be accompanied by copies of any documents which in the Board's opinion are relevant;
- (c) state that the member may:
 - (i) address the Board; and
 - (ii) be representedat a Special Board Meeting;
- (d) state the date, place and time of the Special Board Meeting; and

- (e) inform the member that he or she may do one or more of the following -
 - (i) attend the Special Board Meeting;
 - (ii) not later than two days before the date of the Special Board Meeting provide the Board with a written statement addressing the grounds upon which the Disciplinary Resolution is based; or
 - (iii) not later than two days before the date of the Special Board Meeting, lodge with the Secretary at the College's registered office, a notice to the effect that the member wishes the Disciplinary Resolution to be dealt with by a general meeting ("**a Special General Meeting Request**").

15.5 If a Special Board Meeting is held, the Board shall:

- (a) give the member a fair and reasonable opportunity to be heard;
- (b) allow the member to be represented;
- (c) give consideration to any written statement submitted by the member; and
- (d) by resolution either pass or defeat the Disciplinary Resolution.

15.6 Where the Secretary receives a Special General Meeting Request:

- (a) the Special Board Meeting shall be dissolved; and
- (b) the Board shall convene a general meeting to be held within 42 days after the date on which the Secretary received the Special General Meeting Request.

15.7 If the Board fails to properly convene a general meeting under the preceding sub-clause, the Disciplinary Resolution shall automatically lapse.

15.8 At a general meeting convened under sub-clause 15.6:

- (a) no business other than the Disciplinary Resolution shall be transacted;
- (b) the Board shall place before the meeting details of the grounds on which the Disciplinary Resolution is based;
- (c) the member shall be given a fair and reasonable opportunity to be heard;
- (d) the member shall be entitled to be represented; and
- (e) the members present shall vote by secret ballot as to whether the Disciplinary Resolution should be passed.

15.9 At the general meeting convened under sub-clause 15.6:

- (a) if two-thirds of the members present and voting in person or by proxy, vote in favour of the Disciplinary Resolution, it shall be passed; but
- (b) if less than two-thirds of the members present and voting in person or by proxy vote in favour of the Disciplinary Resolution, it shall lapse.

16. CONVENING GENERAL MEETINGS

- 16.1 The Board may convene a general meeting whenever it thinks fit.
- 16.2 General meetings may be convened in accordance with the Act.
- 16.3 A general meeting must be held at a reasonable time and place.
- 16.4 A general meeting may be held at two or more venues using any technology which gives the members as a whole a reasonable opportunity to participate.

17. NOTICE OF GENERAL MEETING

- 17.1 Subject to the Act, at least 21 clear days notice must be given of a general meeting.
- 17.2 Notice of a general meeting shall:
 - (a) specify the day, time and venue of the meeting;
 - (b) state the nature of the business to be transacted at the meeting;
 - (c) specify the technology to be used to facilitate the meeting if it is to be held in two or more venues;
 - (d) set out the precise terms of any resolution proposed to be put as a special resolution and state specifically that the resolution is to be proposed as a special resolution; and
 - (e) contain a statement setting out the following information, namely:
 - (i) that each member has the right to appoint a proxy; and
 - (ii) that a proxy must be a member.
- 17.3 Notice of every general meeting shall be given in any manner authorised by this Constitution to:-
 - (a) every officer of the College;
 - (b) every member; and
 - (c) the auditor for the time being.
- 17.4 No resolution passed at any general meeting shall be invalid merely because notice of the meeting was:
 - (a) accidentally not given to; or
 - (b) not received bya person entitled to receive notice.

18. QUORUM FOR GENERAL MEETINGS

- 18.1 No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business.
- 18.2 A quorum must be present at all times during a general meeting.
- 18.3 Save as otherwise provided in this Constitution, a quorum shall be the lesser of:
- (a) ten members entitled to vote; or
 - (b) half the total number of members entitled to vote present in person or by proxy.
- 18.4 If within 15 minutes from the time appointed for a general meeting a quorum is not present:
- (a) the meeting, if convened upon a requisition of members, shall be dissolved; and
 - (b) in any other case it shall stand adjourned to:
 - (i) the same day in the next week at the same time and venue; or
 - (ii) any other day and at any other time and venue determined by the Board.
- 18.5 If at any adjourned general meeting a quorum is not present within 15 minutes from the time appointed for the holding of the meeting, the meeting shall be dissolved.

19. PROCEDURE AT GENERAL MEETINGS

- 19.1 The Chairman shall chair every general meeting, but if:
- (a) there is no Chairman; or
 - (b) the Chairman is not present within 15 minutes after the time appointed for the holding of the meeting; or
 - (c) the Chairman is unable or unwilling to chair the meeting,
- the Deputy Chairman shall chair the meeting, but if:
- (1) there is no Deputy Chairman; or
 - (2) the Deputy Chairman is not present within 15 minutes after the time appointed for the holding of the meeting; or
 - (3) the Deputy Chairman is unable or unwilling to chair the meeting
- the members present shall elect a person present at the meeting to chair the meeting.
- 19.2 With the consent of any general meeting at which a quorum is present the chairman of the meeting may adjourn it from time to time and from place to place.

- 19.3 The chairman of the meeting shall adjourn a general meeting if the members present with a majority of votes at the meeting so direct.
- 19.4 No business shall be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 19.5 When a general meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting, but otherwise it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 19.6 Unless the College has adopted standing orders for the conduct of general meetings, then subject to this Constitution, the chairman of any general meeting shall determine the rules of procedure governing the conduct of the meeting.
- 19.7 At any general meeting, if a resolution has been properly proposed as a special resolution, no amendment to it may be considered or voted upon unless:
- (a) the amendment is merely a clerical amendment to correct a patent error; or
 - (b) the moving of the amendment has been agreed to by a two-thirds majority of those present and voting either in person or by proxy.

20. MEMBERS RESOLUTIONS

- 20.1 Three members entitled to vote at a general meeting may give the College notice of a resolution they propose to move at a general meeting ("**Notice of Resolution**").
- 20.2 A Notice of Resolution must:
- (a) be in writing;
 - (b) set out the wording of the proposed resolution; and
 - (c) be signed by the members proposing to move the resolution.
- 20.3 Separate copies of the document setting out the Notice of Resolution may be used for signing by members if the wording of the Notice of Resolution is identical in each copy.
- 20.4 The qualification of members to sign a Notice of Resolution is to be worked out as at the midnight before the Notice of Resolution is given to the College.
- 20.5 If the College has been given Notice of Resolution, the resolution shall be considered at the next general meeting which occurs more than two months after the Notice of Resolution is given.

- 20.6 The College must give all members copies of the Notice of Resolution at the same time or as soon as is practicable afterwards and in the same way as it gives notice of a general meeting.
- 20.7 The members signing a Notice of Resolution are jointly and severally liable for the expenses reasonably incurred by the College in giving members copies of the Notice of Resolution, if the College does not receive it in time to send it out with the notice of the meeting.
- 20.8 Despite anything contained in the preceding sub-clause, at a general meeting the members may resolve that the College shall meet the expenses referred to in the preceding sub-clause.
- 20.9 The College need not give copies of the Notice of Resolution to members:
- (a) if it is more than 1,000 words long;
 - (b) if in the reasonable opinion of the Board it is defamatory; or
 - (c) where the members signing the Notice of Resolution are to bear the expenses of sending copies of it out, if those members do not give the College a sum reasonably sufficient to meet the expenses it will reasonably incur in sending out the notice.

21. VOTING AT GENERAL MEETINGS

- 21.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:-
- (a) by the chairman of the meeting; or
 - (b) by at least two members present in person or by proxy.
- 21.2 A poll may be demanded before or immediately on the declaration of a result of a show of hands.
- 21.3 Unless a poll is demanded:
- (a) a declaration by the chairman of the meeting that on a show of hands a resolution has been carried or carried unanimously or by a particular majority or lost; and
 - (b) an entry to that effect in the College's minute book
- shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 21.4 The demand for a poll may be withdrawn.

- 21.5 If a poll is properly demanded it shall be taken by a secret ballot either at once or after an interval or adjournment and the result of the poll shall be the resolution of the general meeting at which the poll was demanded.
- 21.6 A poll properly demanded on:
- (a) the election of a chairman of the meeting; or
 - (b) a question of adjournment
- shall be taken immediately.
- 21.7 At general meetings:
- (a) each member entitled to vote may vote in person or by proxy;
 - (b) on a show of hands every member present in person or by proxy shall have one vote; and
 - (c) on a poll, every member present in person or by proxy shall have one vote.
- 21.8 No member shall be entitled to vote at any general meeting unless all sums presently payable in relation to his or her membership of the College have been paid.
- 21.9 No objections shall be raised to the qualification of any voter except at the general meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at the meeting shall be valid for all purposes.
- 21.10 Any objections to the qualification of any voter made within time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 21.11 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a casting vote in addition to any deliberative vote he or she may have as a member or as a proxy.

22. PROXIES

- 22.1 An instrument appointing a proxy shall be in writing in a common or usual form executed by or on behalf of a member.
- 22.2 A proxy must be a member.
- 22.3 The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

- 22.4 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a properly certified copy of that power of attorney or authority must be received by the College:
- (a) at the College's registered office;
 - (b) at a fax number at the College's registered office; or
 - (c) at a place, fax number or electronic address specified for the purpose in the notice of meeting
- not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.
- 22.5 A vote given in accordance with the terms of an instrument of proxy shall be valid despite the revocation of the instrument or of the authority under which the instrument or proxy was executed, if no intimation in writing of the revocation has been received by the College at its registered office before the commencement of the meeting or adjourned meeting at which the instrument of proxy is used.

23. ANNUAL GENERAL MEETINGS

- 23.1 Save for its first AGM which must be held within 18 months after its registration, the College must hold an AGM no earlier than 1 October and no later than 30 November in each calendar year.
- 23.2 The business of an AGM shall include:
- (a) consideration of:
 - (i) the financial report;
 - (ii) the governors' report; and
 - (iii) the auditor's reportfor the last financial year which ended before the AGM;
 - (b) the election of any governors who are to be elected at the AGM;
 - (c) the appointment of an auditor; and
 - (d) the fixing of the auditor's remuneration.
- 23.3 The chairman of an AGM shall allow a reasonable opportunity for the persons present at the meeting to ask questions about or make comments on the management of the College.

24. PATRON

- 24.1 The Board may invite a person of high standing in Australia or New Zealand to be the patron of the College.
- 24.2 The patron shall not have voting rights, but may attend and speak at general meetings, conferences and functions conducted by the College.
- 24.3 The College may pay or reimburse any travelling, accommodation or out-of-pocket expenses incurred by the patron in attending any College meeting, conference or function.

25. THE SEAT

- 25.1 Unless otherwise resolved by the Board from time to time by at least a two-thirds majority and save as set out in the following sub-clause, the Seat may only remain in the same State for a maximum of four years at a time.
- 25.2 The first Seat shall be in Victoria and shall remain there until 31 December of the year in which the sixth AGM is held.
- 25.3 Between 1 January and 30 June in the year in which the sixth AGM is to be held, the Board shall determine the State in which the Seat shall be located for the quadrennium commencing on 1 January of the year immediately following the sixth AGM.
- 25.4 Between 1 January and 30 June of the fourth year of each quadrennium following a relocation of the Seat, the Board shall determine the State in which the Seat shall be located with effect from 1 January of the year immediately following the end of the quadrennium.

26. THE BOARD

- 26.1 There shall be no less than three nor more than 14 governors.
- 26.2 A person must be a member to qualify for election or appointment to office as a governor.
- 26.3 The first governors:
 - (a) shall be the persons named in the application for registration of the College as the proposed governors; and

- (b) subject to this Constitution:
 - (i) shall hold office until 31 December of the year in which the second AGM is held; and
 - (ii) shall be eligible for election or re-appointment to office.

26.4 The Board shall comprise:

- (a) no less than three nor more than five executive governors ("**Executive Governors**"); and
- (b) up to nine non-executive governors ("**Non-Executive Governors**").

26.5 The office of governor shall become vacant if the governor:-

- (a) ceases to be a governor by virtue of the Act;
- (b) resigns his or her office by notice in writing to the College; or
- (c) ceases to be a member.

27. EXECUTIVE GOVERNORS

27.1 At the time of election or appointment to office, an Executive Governor must:

- (a) ordinarily be resident; and
- (b) hold office as a notary
in the State in which the Seat:
 - (1) is located; or
 - (2) will be located following a determination of the Board in accordance with sub-clauses 25.3 or 25.4 above.

27.2 All of them being qualified, the first governors shall be the first Executive Governors and subject to this Constitution:

- (a) shall hold office until 31 December of the year in which the second AGM is held; and
- (b) shall be eligible for election or re-appointment as governors.

27.3 Subject to the preceding sub-clause, Executive Governors shall be elected biennially by the members at every second AGM and subject to this constitution:

- (a) shall hold office for a term of two years from 1 January of the year following election; and
- (b) shall be eligible for re-election or appointment as governors.

28. NON-EXECUTIVE GOVERNORS

28.1 There shall be nine electoral districts, namely:

- (a) New South Wales;
 - (b) Queensland;
 - (c) South Australia;
 - (d) Tasmania, the Australian Capital Territory and the Northern Territory;
 - (e) Victoria;
 - (f) Western Australia;
 - (g) the Auckland district, being that part of the North Island of New Zealand, north of an imaginary line joining Gisborne, Taupo and Te Kuiti;
 - (h) the Wellington district, being that part of the North Island of New Zealand, south of an imaginary line joining Gisborne, Taupo and Te Kuiti; and
 - (i) the South Island of New Zealand
- ("the Electoral Districts").

28.2 As far as is reasonably practicable, there shall be one Non-Executive Governor appointed or elected from each of the Electoral Districts.

28.3 At the time of election or appointment to office a Non-Executive Governor must:

- (a) ordinarily be resident; and
- (b) hold office as a notary

in the Electoral District from which he or she is appointed or elected.

28.4 The first Non-Executive Governors:

- (a) shall be appointed by the Executive Governors; and
- (b) subject to this Constitution:
 - (i) shall hold office until 31 December of the year in which the second AGM is held; and
 - (ii) shall be eligible for election or re-appointment as governors.

28.5 Subject to the preceding sub-clause, at every second AGM the members ordinarily resident in each Electoral District shall elect a Non-Executive Governor for the district who, subject to this Constitution:

- (a) shall hold office for a term of two years from 1 January of the year following election; and
- (b) shall be eligible for re-election or appointment as a governor.

29. NOMINATIONS FOR THE ELECTION OF GOVERNORS

- 29.1 The College shall call for nominations for election by notice given to the members in any manner authorised by this Constitution at least 70 days before the date on which an election is to be held.
- 29.2 The notice calling for nominations shall state that members wishing to nominate for election may do so by applying in writing within 14 days of receipt of the notice to the Secretary for a nomination form.
- 29.3 No election shall be invalid merely because a notice calling for nominations was:
- (a) accidentally not given; or
 - (b) not received by a member entitled to receive notice.
- 29.4 Within seven days of receiving a written request for a nomination form, the Secretary shall forward a nomination form to the member who has requested it.
- 29.5 No election shall be invalid merely because a nomination form was:
- (a) accidentally not given to; or
 - (b) not received by a member requesting it
- 29.6 A nomination for election as a governor:
- (a) shall be in writing:
 - (i) signed by the nominee; and
 - (ii) countersigned by at least two members;
 - (b) shall be accompanied by the member's written consent to hold office as a governor; and
 - (c) shall specify whether the nominee seeks election as an Executive Governor or a Non-Executive Governor and in the latter case, shall also specify the Electoral District in which the nominee seeks to be elected.
- 29.7 A member's nomination for election as a governor must be received by the Secretary no later than 42 days before the holding of the AGM at which the person seeks election.
- 29.8 A nomination for election may be accompanied by:
- (a) a statement of not more than 150 words outlining:
 - (i) the nominee's service to the notariat or experience as a notary or both;
- and

- (ii) the reasons why the nominee seeks election as a governor and the policies that the nominee will pursue if elected; and
- (b) a passport style photograph of the nominee.

30. THE CONDUCT OF ELECTIONS FOR GOVERNORS

30.1 After the close of nominations:

- (a) if there are five or fewer valid nominations by nominees for election to office as Executive Governors, those nominees shall be declared elected to office;
- (b) if there is only one valid nomination by a nominee for election to office as a Non-Executive Governor by members in a particular Electoral District, that nominee shall be declared elected to office;
- (c) if there are fewer valid nominations by nominees for election to office than there are vacancies to be filled, as the circumstances, require one or more casual vacancies shall be declared to have occurred which may be filled in accordance with this Constitution with effect from the next following 1 January; and
- (d) if there are more valid nominations for election to office than there are vacancies to be filled, as the circumstances require, one or more postal ballots shall be held to elect the governor or governors required to fill the vacancy or vacancies concerned.

30.2 Unless otherwise determined by the Board from time to time, elections for the office of governor shall be conducted by secret postal ballot by the Australian Electoral Commission in accordance with rules for the conduct of the elections recommended by the Australian Electoral Commission.

31. CASUAL BOARD VACANCIES

31.1 Any casual vacancy in the Board may be filled by appointment by the Executive Governors.

31.2 Any person appointed to be a governor to fill a casual vacancy:

- (a) shall retire from office at the same time as if he or she had become a governor in the ordinary course; and
- (b) subject to this Constitution, shall be eligible for re-appointment or re-election.

31.3 A governor appointed to fill a casual vacancy shall take up office from the close of the meeting of the Executive Governors at which he or she is appointed.

32. MANAGEMENT OF THE COLLEGE BY THE BOARD

- 32.1 The affairs of the College shall be managed by or under the direction of the Board which may exercise all of the College's powers except those which by virtue of the Act or this Constitution are required to be exercised by a general meeting.
- 32.2 Despite anything contained in this Constitution, only the Board has the power to determine the location of the Seat from time to time.
- 32.3 No resolution of a general meeting shall invalidate any prior act of the Board which would have been valid if the resolution had not been passed.

33. THE EXECUTIVE

- 33.1 The Executive Governors shall comprise the executive of the Board ("**the Executive**").
- 33.2 In between meetings of the Board, the affairs of the College shall be managed by or under the direction of the Executive which may exercise all of the Board's powers except those which by virtue of this Constitution must be exercised by the Board, including but not limited to the power to determine the location of the Seat from time to time.
- 33.3 No resolution of the Board shall invalidate any prior act of the Executive which would have been valid if the Board resolution had not been passed.

34. THE CHAIRMAN AND THE DEPUTY CHAIRMAN

- 34.1 There shall be:
- (a) a Chairman; and
 - (b) a Deputy Chairman.
- 34.2 The Chairman, and in the Chairman's absence, the Deputy Chairman:
- (a) shall be the executive head of the College;
 - (b) shall be the College's official representative for all purposes; and
 - (c) shall be an ex-officio member of:
 - (i) any committees of the Board; and
 - (ii) any advisory committeeswhich may be established.

- 34.3 The first Chairman and the first Deputy Chairman:
- (a) shall be elected by the Executive Governors from among their number at their first meeting following the registration of the College; and
 - (b) subject to this Constitution:
 - (i) shall hold office until 31 December of the year in which the second AGM is held; and
 - (ii) shall be eligible for election or re-election to either office.
- 34.4 Subject to the preceding sub-clause, the Chairman and the Deputy Chairman shall be elected biennially by the Executive Governors from among their number at their first meeting following the AGM at which they are elected, which meeting must be held before 31 December in the year in which the relevant AGM is held ("**the Post Election Meeting**") and subject to this Constitution:
- (a) shall hold office for a term of two years from 1 January of the year following the relevant AGM; and
 - (b) shall be eligible for re-election to either office.
- 34.5 At a Post Election Meeting:
- (a) the Executive Governors who have been elected or re-elected at the AGM to take office on 1 January of the following year are entitled to attend and vote on the election of the Chairman and the Deputy Chairman; but
 - (b) the Executive Governors:
 - (i) who are to vacate office on 31 December immediately following the Post Election Meeting; and
 - (ii) who have not been re-elected to office
 are not entitled to vote on the election of the Chairman and the Deputy Chairman, but are otherwise entitled to fully participate in the meeting.
- 34.6 A casual vacancy in the office of Chairman or Deputy Chairman shall be filled by election by the Executive Governors from among their number and any Executive Governor elected to fill a casual vacancy:
- (a) shall retire from office at the same time as if he or she had been elected to office on the day on which the former Chairman or Deputy Chairman, as the case may be, was last elected to office; and
 - (b) subject to this Constitution shall be eligible for re-election to either office.

35. THE PRESIDENT

- 35.1 The Executive Governors may resolve from time to time to appoint one of their number to be the President of the College.

35.2 The role of the President is to be a special ambassador for the promotion of the College's objects.

35.3 A President:

- (a) shall hold office until the end of the term of office of the Executive Governors current at the time of his or her appointment; and
- (b) subject to this Constitution, shall be eligible for re-appointment to the office of President.

36. THE SECRETARY

36.1 The Secretary need not be a notary.

36.2 The person specified in the application for registration of the College as the proposed Secretary shall be the first Secretary.

36.3 Subject to the preceding sub-clause, the Board shall have the power to appoint a Secretary:

- (a) for any term;
- (b) at any remuneration; and
- (c) on any conditions

which it may determine from time to time.

36.4 Any Secretary may be removed by the Board.

37. MEETINGS OF THE BOARD AND OF THE EXECUTIVE

37.1 In addition to any special meetings of the Board pursuant to clause 15, the Board shall meet at least twice in each calendar year.

37.2 The Executive shall meet at least quarterly in each calendar year.

37.3 The Chairman, and in the Chairman's absence the Deputy Chairman, shall chair all Board meetings and all meetings of the Executive, but if:

- (a) there is no Chairman or Deputy Chairman; or
- (b) the Chairman and the Deputy Chairman are both not present within 15 minutes after the time appointed for the holding of a meeting; or

- (c) both the Chairman and the Deputy Chairman are unable or unwilling to chair a meeting

the governors present shall elect one of their number present at the meeting to chair it.

37.4 Unless standing orders have been adopted for the conduct of meetings of the Board or of the Executive, as the case may be, then subject to this Constitution, the chairman of a meeting shall determine the rules of procedure governing the conduct of the meeting.

37.5 The Chairman may at any time and the Secretary shall on the requisition of any two governors, summon a meeting of the Board.

37.6 The Chairman may at any time and the Secretary shall on the requisition of any two Executive Governors, summon a meeting of the Executive.

37.7 Other than in an emergency, at least seven clear days notice must be given of a meeting of the Board or of the Executive.

37.8 A meeting of the Board or of the Executive may consist of a conference between governors who are not all in one place but of whom each is able to:

- (a) speak to each of the others directly or by telephonic communication; and
- (b) be heard simultaneously by each of the others.

37.9 Subject to this Constitution, questions arising at any meeting of the Board or of the Executive shall be decided by a majority of votes and a majority determination shall for all purposes be deemed a determination of the Board or of the Executive, as the case may be.

37.10 In the case of an equality of votes, the chairman of a meeting shall have a second or casting vote.

37.11 The Secretary shall attend each meeting of the Board and of the Executive and shall be entitled to speak, but shall not be entitled to vote.

37.11 The failure of the Secretary to attend a meeting of the Board or of the Executive shall not prevent the meeting taking place.

38. QUORUM FOR BOARD MEETINGS

38.1 The quorum necessary for the transaction of the business of the Board shall be three, but no meeting of the Board shall be quorate unless at least:

- (a) the majority of the Executive Governors holding office; and
 - (b) the majority of the Non-Executive Governors holding office
- are present at all times during the meeting.

38.2 The continuing governors may act despite any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Board, the continuing governors may act for the purpose of increasing the number of governors to that number but for no other purpose.

39. QUORUM FOR MEETINGS OF THE EXECUTIVE

39.1 The quorum necessary for the transaction of the business of the Executive shall be three.

39.2 The continuing Executive Governors may act despite any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of the Executive, the continuing Executive Governors may act for the purpose of increasing the number of Executive Governors to that number, but for no other purpose.

40. BOARD COMMITTEES

40.1 The Board may establish ad hoc or standing committees for specific purposes, other than for the determination of the Seat, consisting of any number of governors it thinks fit.

40.2 Any committee shall conform to any regulations which may be imposed on it by the Board.

40.3 A committee may elect a chairman of its meetings and determine the period for which the chairman is to hold office.

40.4 If:

- (a) a committee does not elect a chairman; or
- (b) at any meeting the chairman:
 - (i) is not present within 15 minutes after the time appointed for holding the meeting; or
 - (ii) is unable or unwilling to act,

the members present may choose one of their number to chair the meeting.

40.5 A committee may meet and adjourn as it thinks proper.

- 40.6 Questions arising at any committee meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.

41. WRITTEN RESOLUTIONS OF GOVERNORS

- 41.1 The Board may pass a resolution without holding a meeting, if three quarters of all the members of the Board entitled to vote on the resolution, sign a document containing a statement that they are in favour of the resolution set out in the document.
- 41.2 Two or more separate documents containing statements in identical terms each of which is signed by one or more of the governors shall together be deemed to constitute one document containing a statement in those terms signed by those governors on the respective days on which they signed the separate documents.
- 41.3 Any document which is attached to a document referred to in sub-clauses 41.1 and 41.2 and which is signed by the governor or governors who signed the last mentioned document shall for all purposes be deemed to have been laid before the Board.

42. BORROWINGS, GUARANTEES AND CHARGES

- 42.1 The Board may exercise all the powers of the College to:
- (a) borrow money;
 - (b) mortgage or charge the whole or any part of the College's undertaking and property; and
 - (c) issue debentures and other securities whether outright or as security for any debt, liability or obligation of the College or of any third party.

43. SIGNATURE OF CHEQUES, ETC.

- 43.1 Save as otherwise resolved from time to time by the Board, all cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the College shall be signed, drawn, accepted, endorsed or otherwise executed by:
- (a) two Executive Governors; or
 - (b) one Executive Governor and the Secretary.

44. MINUTES

44.1 The College shall keep minute books in accordance with the Act in which shall be recorded within one month of the relevant proceedings or the passage of the relevant resolutions, all:

- (a) proceedings and resolutions of general meetings;
- (b) proceedings and resolutions of Board meetings;
- (c) proceedings and resolutions of meetings of the Executive;
- (d) proceedings and resolutions of Board committees; and
- (e) resolutions passed by the Board without a meeting.

44.2 Minutes of meetings of members and resolutions of members shall be open for inspection by members free of charge.

44.3 Minutes of meetings of the Board and its committees and of the Executive and resolutions of the Board and its committees and of the Executive shall be available for inspection by members:

- (a) at the discretion of the Board; and
- (b) on any terms the Board thinks fit.

45. VALIDITY OF ACTS OF THE BOARD

45.1 All acts done by:

- (a) the Board;
- (b) the Executive; or
- (c) any person acting as a governor

shall be valid even though it is afterwards discovered that there was some defect in the appointment of any governor or person acting as a governor, or that they or any of them were disqualified.

46. ADVISORY COMMITTEES

46.1 The Board may establish one or more advisory committees ("**Advisory Committees**") to assist it in making decisions in relation to matters of concern and interest to the College.

46.2 The Board shall not be bound in any way to accept the advice of any Advisory Committee

46.3 The Board may appoint and remove or make provision for the appointment and removal of members of Advisory Committees.

- 46.4 Advisory Committees shall consist of the number of persons determined by the Board from time to time.
- 46.5 The powers and duties of any Advisory Committee shall be determined by the Board from time to time.
- 46.6 The Board shall have the right to specify:
- (a) the manner in which proceedings of any Advisory Committee are to be conducted; and
 - (b) the matters to which any Advisory Committee shall have regard in carrying out its functions.
- 46.7 The College may provide any secretarial and administrative support to any Advisory Committee which the Board deems to be appropriate from time to time.

47. FINANCIAL YEAR

- 47.1 Until otherwise determined according to law, the College's financial year shall end on 30 June in each year.

48. AUDITOR

- 48.1 The College shall have an auditor who shall be appointed or elected in accordance with the Act.
- 48.2 The College's accounts shall be audited annually.
- 48.3 The auditor or the auditor's authorised representative shall be entitled to attend and be heard at any part of a general meeting of the College or any part of a meeting of the Board at which:
- (a) the auditor's report or any accounts or statements to which the report relates are to be presented or considered; or
 - (b) there is to be conducted any business of the meeting which relates to:
 - (i) the auditor in that capacity; or
 - (ii) the authorised representative of the auditor in the capacity of a person so authorised.

49. THE COMMON SEAL

49.1 The College shall have a common seal.

49.2 The Board shall provide for the safe custody of the common seal.

49.3 The common seal shall only be used by the authority of the Board or of a committee of the Board authorised by the Board in that regard.

49.4 Every instrument to which the common seal is affixed shall be signed by a governor and countersigned by:

- (a) the secretary; or
- (b) a second governor.

50. EXECUTION OF DOCUMENTS

50.1 The College may execute a document, including but not limited to a deed, without using the common seal if the deed is signed by:

- (a) two governors; or
- (b) a governor and the secretary.

51. MOTTO AND EMBLEM

51.1 The College motto shall be "**SCIENTIA ET PROBITAS**".

51.2 The College emblem shall be a monogram of the letters "N" and "P" in the centre of a roundel, which bears the motto within its outer rim, a representation of which is set out below:



("the Emblem").

51.3 The Board may authorise and regulate the use of the Emblem for any purpose it thinks fit.

52. THE COLLEGE SEAL

52.1 In addition to its common seal, the College shall have a seal embossed with the Emblem ("**the College Seal**") to be affixed to certificates of membership, diplomas, awards and the like as authorised by the Board from time to time.

52.2 Every instrument to which the College Seal is affixed shall be signed by a governor and countersigned by:

- (a) a second governor; or
- (b) the secretary.

52.3 The Board shall provide for the safe custody of the College Seal.

53. INSPECTION OF RECORDS

53.1 Subject to this Constitution and the requirements of the Act:

- (a) the Board may from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting and other records of the College or any of them shall be open to the inspection of members who are not governors; and
- (b) a member who is not a governor shall not have any right to inspect any account or book or paper of the College except as provided by law or authorised by the Board or by a general meeting.

54. RULES

54.1 The Board shall have the right from time to time to make, amend or repeal any Rules.

54.2 A general meeting may amend or repeal any Rules.

54.3 Any Rules:

- (a) are subject to this Constitution; and
- (b) bind all members and Associates.

54.4 To the extent that any Rules are inconsistent with this Constitution, they shall not be binding.

55. NOTICES

55.1 All notices shall be in writing in legible English.

55.2 A notice may be given to any member, prospective member, governor, auditor or any other person:

- (a) personally;
- (b) by fax to any fax number provided by the person to the College for the purpose of receiving faxes;
- (c) by sending it electronically to any electronic address provided by the person to the College for the purpose of receiving electronic messages; or
- (d) by sending it by post to the person to:
 - (i) the person's address as shown in the College's records; or
 - (ii) any address provided by the person to the College for the purpose of receiving notices.

55.3 Where a notice is sent by post, service of the notice shall be effected at the time at which a properly addressed, prepaid and posted letter containing the notice would be delivered in the ordinary course of post.

55.4 Where a notice is given electronically or by fax, service of the notice shall be deemed to be effected on the day after it was sent.

55.5 The signature to any notice to be given by the College may be written or printed.

56. INDEMNITY

56.1 Every person who is or has been an officer of the College shall be indemnified out of the assets of the College against any liability incurred:

- (a) in defending any civil or criminal proceedings arising out of the person's position with the College, in which judgement is given in the person's favour or in which the person is acquitted or in which the proceedings are withdrawn; or
- (b) in connection with any application under the Act.

57. WINDING UP

57.1 If on the winding up or dissolution of the College, after satisfaction of all its debts and liabilities, any property remains:

- (a) it shall not be paid or distributed among the members; but

- (b) it shall be given or transferred to some other body corporate
 - (i) which by its constitution prohibits the distribution of its income and property among its members to an extent at least as great as that imposed on the College by this Constitution; and
 - (ii) the objects of which are wholly or partly similar to those of the College.

57.2 The body corporate referred to in the preceding sub-clause shall be determined:

- (a) by the members at or before the time of winding up or dissolution; and
- (b) in default, by a judge of the Federal Court of Australia on the application of the liquidator.

58. AMENDMENT OF THIS CONSTITUTION

58.1 This Constitution or any part of it may be amended, modified or repealed by a special resolution passed at a general meeting.